
PROPOSED CHANGES TO COMPLAINTS POLICY

Responsible Cabinet Member – Councillor John Williams, Leader

Responsible Director – Lorraine O’Donnell, Assistant Chief Executive

Purpose of Report

1. This report is to seek members approval for a change to the Council’s current complaints policy to introduce measures to enable the Council to respond to unreasonably persistent complainants and to deal with unreasonable complainant behaviour.

Information and Analysis

2. The Local Government Ombudsman has provided a guidance note to help local authorities formulate policies on unreasonably persistent complainants and unreasonable complainant behaviour based on what the Ombudsmen would regard as good practice.
3. A complainant who has been designated as an unreasonable or an unreasonably persistent complainant may make a complaint to the Ombudsman about the way in which he or she has been treated. The Ombudsman is unlikely to be critical of the council’s action if it can show that it has a policy in place and that the policy has been operated properly and fairly.

Definition

4. The guidance suggests that unreasonable complainants are those who are unreasonable because of the nature of their behaviour and unreasonably persistent complainants are those complainants who, because of the frequency or nature of their contacts with an authority, hinder the authority’s consideration of their, or other people’s, complaints.
5. It is helpful to have a Complaints policy in place to deal with unreasonable and unreasonably persistent complainants and corresponding guidance for staff on the procedure will enable the Council to deal with complainants in ways which are demonstrably consistent and fair. It also helps staff to understand clearly what is expected of them, what options for action are available, and who can authorise these actions. In the absence of such guidance staff are likely to have greater problems with unreasonable and unreasonably persistent complainants. In addition, it provides a yardstick against which performance can be assessed for monitoring purposes.
6. Where a complainant’s behaviour is ‘unreasonable’ and causes distress or alarm to staff dealing with the complaint, the Council can decide to apply the policy, however in the short term there is a need to ensure that the Council’s applies its own procedures for dealing with the protection of staff.

7. It is important to emphasise that the complainants who are ‘unreasonably persistent’ are different from those who are simply persistent. There may be complainants who pursue individual complaints in a persistent way and who can be very thorough in the pursuit of their complaint but these complainants are unlikely to fall within the policy unless their behaviour is unreasonable.
8. The policy will sit as an appendix to the existing complaints policy. The complaints policy has therefore been amended to show the addition of the appendix with details about the application of the policy. The revised complaints policy is attached at **Appendix 1**. The new policy on unreasonable and unreasonably persistent complainants is Appendix B to that policy. (Appendix A is not attached as it is an existing Appendix requiring no decision from Members).
9. To assist staff dealing with complaints the policy sets out the type of triggers which may lead to the policy being applied in relation to any particular complainant. It details the type of actions which will be available to the authority to take including limiting the number of times in a period the complainant can contact the Council, limit the number of people dealing with a complainant, restricting telephone or direct access. Although the policy will enable the Council to resist reconsideration of matters which have already been investigated it will not enable the Council to refuse to deal with complaints at all or to refuse to read correspondence. The Council still has an obligation to consider all correspondence to establish whether it raises legitimate matters of complaint.
10. The policy will need to ensure that it is clear who can make a decision to apply the policy and what right of appeal a complainant to whom the policy has been applied will have.
11. It is also important that the Council keeps records of the application of the policy, the circumstances and the review procedures in place. The guidance suggests that annual returns should be provided and this could be included within information gathered and considered using the new complaints system.
12. It is important to ensure that once the policy has been applied to a complainant this is regularly reviewed. It is also important to ensure that there is a mechanism in place for communicating the decision to apply the policy, so that other staff across the Council are aware of the decision and any risks.
13. The policy will also need to address how it links in with other authority policies and procedures including Freedom of Information requests.

Outcome of Consultation

14. This report has not been the subject of external consultation.

Legal Implications

15. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Section 17 of the Crime and Disorder Act 1998

16. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is not considered that the contents of this report have any such effect.

Council Policy Framework

17. The issues contained within this report do not represent change to Council policy or the Council's policy framework.

Decision Deadline

18. For the purpose of the 'call-in' procedure this does not represent an urgent matter.

Key Decisions

19. This is not a key decision.

Recommendation

20. It is recommended that Members approve the revised complaints policy and the policy on unreasonable and unreasonably persistent complainants included as Appendix B to the complaints policy.

Reasons

21. The recommendations are supported by the following reasons :-
- (a) To ensure that the Council is consistent in the treatment of complainants who are unreasonable or unreasonably persistent.
 - (b) To protect the Council against criticism from the Local Government in the handling of unreasonable or unreasonably persistent complainants.

Lorraine O'Donnell
Assistant Chief Executive

Background Papers

No Background papers were used in the preparation of this report.

Catherine Whitehead Ext 2306
TAB